

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 03-0299P**

**Withholding Tax**

**For the Monthly Periods of January thru April 2003**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the late payment penalty.

II. **Tax Administration** – Interest

**Authority:** IC 6-8.1-10-1

The taxpayer protests the interest assessment.

**STATEMENT OF FACTS**

The late payment penalty was assessed on the late filing of monthly withholding tax returns.

The taxpayer is a corporation headquartered out-of-state.

I. **Tax Administration** – Penalty

**DISCUSSION**

The taxpayer argues the late penalty should be waived as the coupon book was not received in the mail by the taxpayer until mid-2003.

The Department points out the BT-1 business application that the taxpayer sent to the Department was incomplete. The BT-1 application did not have the required information of the associates. On April 24, 2003 the Department requested the required information

from the taxpayer. When the information was received, the coupon books were sent to the taxpayer.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

The Department finds the error in this case to be the error of the taxpayer in that the taxpayer did not complete all of the required information on the BT-1 business application. As such, the Department finds the taxpayer was inattentive to tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

### **FINDING**

The taxpayer's penalty protest is denied.

## **II. Tax Administration – Interest**

### **DISCUSSION**

The taxpayer protests the interest assessment.

IC 6-8.1-10-1 does not allow the waiver of interest. As such, the Department finds the assessment of interest proper and denies the interest protest.

### **FINDING**

The taxpayer's interest protest is denied.